

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY HARPER,)	
)	
Plaintiff,)	Civil Action No. 3:18-202
)	District Judge Kim R. Gibson
v.)	Magistrate Judge Maureen P. Kelly
)	
DR. PAUL NOEL, DR. ANDREW J.)	
DANCHA, R. N. BECKNOR, SECRETARY)	Re: ECF Nos. 32, 51 and 57
JOHN WETZEL, JOSEPH SILVA, JAY)	
COWAN, JAMEY LUTHER,)	
KOWALEWSKI, and JAWAD SALAMEH,)	
)	
Defendants.)	

ORDER OF COURT

Plaintiff Anthony Harper ("Plaintiff"), an inmate at the State Correctional Institution at Laurel Highlands, proceeding *pro se*, filed a Complaint in the above-captioned matter. ECF No. 1. Defendants filed dispositive motions and briefs in support. ECF Nos. 32, 33, 57, and 58. Plaintiff opposed Defendants' dispositive motions. ECF Nos. 59 and 62. Defendants Correction Care Solutions ("CCS"), Jay Cowan ("Cowan"), Andrew J. Dancha ("Dancha"), and Jawad Salameh ("Salameh") (jointly, the "CCS Defendants") filed a reply brief. ECF No. 63. Plaintiff submitted a supplemental response. ECF No. 65. CCS Defendants also submitted a supplemental response withdrawing an argument. ECF No. 66. Plaintiff also filed a Motion for Judgment on the Pleadings. ECF No. 51. Defendants filed briefs in opposition. ECF Nos. 55 and 61.

A Report and Recommendation was filed by United States Magistrate Judge Maureen P. Kelly, ECF No. 67, giving the parties until October 21, 2019 to file written objections thereto. Upon consideration of Objections filed by Plaintiff, ECF No. 68, and the responses to the

Objections submitted by Defendants, ECF Nos. 70 and 71, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,


IT IS HEREBY ORDERED that this 15th day of November, 2019:

1. that the Motion for Judgment on the Pleadings filed on behalf Defendants R.N. Beckner, John Wetzel, Kowalewski, Jamey Luther, and Joseph Silva, ECF No. 32, is granted to the extent that it seeks dismissal of Plaintiff's claims without prejudice, but is denied to the extent it seeks the entry of judgment;
2. that the Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, filed on behalf of Defendants CCS, Cowan, Dancha, and Salameh, ECF No. 57, is granted in part and denied in part; specifically,
 - a. that the Motion to Dismiss is granted as to Defendant Cowan, and that he is dismissed without prejudice;
 - b. that the Motion to Dismiss is granted as to Defendant CCS, and that any claims asserted on the basis of respondeat superior or vicarious liability are dismissed with prejudice, but that any remaining claims for the violation of Plaintiff's Eighth Amendment rights are dismissed without prejudice;
 - c. that the Motion to Dismiss Plaintiff's Fourteenth Amendment claim is granted and this claim be dismissed with prejudice; and
 - d. that the Motion to Dismiss is denied in all other respects;
3. that the Motion for Judgment on the Pleadings filed by Plaintiff Anthony Harper, ECF No. 51, is denied; and

4. that the Plaintiff is granted leave to amend his Complaint to correct any deficiencies identified by the Court, and to file any such amended complaint within twenty-one days, or elect to stand on his Complaint and proceed with his remaining claims against Defendants Noel, Dancha, and Salameh as stated.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

By the Court:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON
United States District Judge

cc: Honorable Maureen P. Kelly
United States Magistrate Judge

Anthony Harper
AF-6000
SCI Laurel Highlands
5706 Glades Pike
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All Counsel of Record Via CM-ECF